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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,947	02/26/2007	Mikko Nevalainen	P2853US00	7062
30671	7590	08/03/2009	EXAMINER	
DITTHAVONG MORI & STEINER, P.C. 918 Prince St. Alexandria, VA 22314			GEORGEWILL, OPIRIBO	
			ART UNIT	PAPER NUMBER
			2617	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,947	NEVALAINEN, MIKKO	
	Examiner	Art Unit	
	OPIRIBO GEORGEWILL	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 October 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-42 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-42 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/16/2008 and 2/26/2007</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
2. Applicable subtitles to sections in the disclosure are missing. Applicant is required to use the applicable subtitles below to identify relevant sections in the disclosure.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).

- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (**See MPEP Ch. 2141**)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

4. **Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 21, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raiz et al. US Pub No. 20020164025 A1 in view of Kolakowski, Victoria, S., WIPO Pub No. 02/49732 A1.**

Re claim 1, Raiz discloses a method for the surveyed executing (paragraph [12], Raiz discloses that no human intervention from the vendor need be required ... the system prompts the user only for information that cannot otherwise be gathered from existing information or the user's machine) on a terminal device (fig 1, reference 15, user computer) comprising:

detecting a user input directed to start the execution of an application on said terminal device (paragraph [51], ... every time the user starts the application while in the grace period),

initiating a message to a surveillance center, wherein said message indicates the execution of an application (paragraph [51], ... every time the user starts the application while in the grace period the application with attempt to connect to the license server (surveillance center) and request renewed authorization key (message)), and

starting a restricted execution of said application, within predetermined limits, after said message has been initiated (paragraph [51], if the grace period ends (starting a restricted execution, within predetermined limits) with no issuance of the replacement license key).

Raiz discloses the claimed invention but is silent on the mobility of the terminal. Kolakowski in analogous art discloses a method for surveyed executing (page 3, lines 22 – 28, software encryption key to authorize the wireless remote entertainment system to operate for a predetermined time or amount of usage; page 9, line 27 – 30, functionality using upstream channel ... may be changed ...

purchase a key) of an application (page 9, line 27, Fully interactive functionality) on a mobile terminal device (fig 1, page 5, line 4 wireless broadcast; page 5, line 30, upstream communication channel may utilize a variety of conventional transmission technologies, including wireless or cellular) so as to create a mobile multi—player computer game device that was mobile, would use redundant downstream transmission and would not be dependent upon internet congestion (page 2, lines 31 - 33). Kolakowski further discloses a mobile terminal device (fig 1, page 5, line 4 wireless broadcast; page 5, line 30, upstream communication channel may utilize a variety of conventional transmission technologies, including wireless or cellular). It would have been obvious to a person having ordinary skills in the art, at the time the invention was made, to incorporate the teaching of Kolakowski to have a mobile terminal device in the method disclosed by Raiz so as to create a mobile multi-player computer game device that to have a mobile terminal device that was mobile, would use redundant downstream transmission and would not be dependent upon internet congestion.

The rejection of claim 1 is incorporated herein. Claims 2, 3, 4, 5, 6, 7, 9, 11, 15, 16, 17, 23, 25, 26 depend on claim 1 and only further limitations will be addressed below.

Re claim **2**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses

sending said message to said surveillance center (Raiz: paragraph [51], every time the user starts, the application while in the grace period the application will

attempt to connect the license server and request a renewed authorization key (sending message)

starting said restricted execution of the said application, with predetermined limits, after said message has been sent (Raiz: paragraph [51], if the grace period ends (starting a restricted execution, within predetermined limits) with no issuance of the replacement license key).

Re claim 3, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses that the application is a game (Kolakowski: page 4, line 15, operation of game)

Re claim 4, the combined teaching of Raiz in view of Kolakowski, as a whole, disclose that the message indicates the start of execution of an application (Raiz, paragraph [51], every time the user starts the application while in the grace period, the application will attempt to connect to the license server and request a renewed authorization key)

Re claim 5, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses said limit comprise a time limit (Raiz: paragraph [51], running the application until the end of the grace period).

Re claim 6, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses said limit comprise an application limit (Kolakowski: page 3, line 27 activates an otherwise locked system to operate permanently; page 9, line 10, demo mode).

Re claim 7, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses

setting up a connection to a surveillance center (implicit from Raiz, paragraph [51], connecting to the license server)

sending a message to a surveillance center, said message comprise application execution related data (Raiz, paragraph [51], connect to the license server and request a renewed authorization key; paragraph [35], fingerprint of computer (execution related data))

receiving an authorization to execute said application within said limits defined by said surveillance center (Raiz: paragraph [51], implicit from requesting a renewed authorization key; paragraph [42], key is encrypted to work on only the user's fingerprinted computer and only for a specific period of time).

The rejection of claim 7 is incorporated herein. Claims 8 and 10 depend on claim 7 and only further limitations will be addressed below.

Re claim 8, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses said application execution related data (paragraph [35], where Raiz discloses that the computer fingerprint can be digital information stored on a microprocessor A person having ordinary skill in the art will recognize from the reference of fingerprint that the information has to be unique to the terminal).

The combined teaching of Raiz in view of Kolakowski, as a whole, is silent on the further comprising of the execution related data. However, it would be obvious to a person having ordinary skill in the art, at the time the invention was made, to

use a mobile terminal fingerprint like the International Mobile Equipment Identity (mobile electronic terminal identification) as a unique number because it is obvious to try.

Re claim **9**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses the application starts the sending of a message to said surveillance center (Raiz: paragraph [51], every time the user starts the application ... to connect to the license server and request a renewed authorization key).

Re claim **10**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses

outputting a user-authorization request to send a message to a surveillance center (Raiz: paragraph [51], the user is alerted to call in or complete the registration wizard to restart account)

detecting a user-authorization input authorizing said connection setup (implicit from step above).

Re claim **11**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses

outputting a user-authorization request to perform a payment transaction (Raiz: paragraph [44], each time a new user subscribes to use the application ... payment information is directed to the financial system)

detecting a user-authorization input for authorizing said payment transaction (implicit from the step above)

The rejection of claim 11 is incorporated herein. Claim 12, 13 depends on claim 11 and only further limitations will be addressed below.

Re claim **12**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses whereby the authorized payment transaction is performed by charging an onboard payment device (Raiz: paragraph [27], financial and commercial functions, paragraph [44])

Re claim **13**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses wherein said authorization payment transaction is performed by sending said authorization for said payment transaction to said surveillance center (Raiz: paragraph [44], payment fulfillment information is then posted back to the license server)

Re claim **15**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses that the message is sent periodically (Kolakowski: page 9, lines 26 - 27, Fully interactive functionality using upstream communications channel 32 may be charged on a metered basis (by minute or data throughput), implicit that the message has to be sent often (periodically)).

Re claim **16**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses said application determines the number of messages to be sent and the point in time a message is sent (Raiz: paragraph [48], if the license key has expired, the application connects to the license server without prompting a user)

Re claim **17**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses the determining that the message cannot has not be sent (Raiz: paragraph [51], if connection cannot be made; implicit that a determination has been made that the message has not been sent).

The rejection of claim 17 is incorporated herein. Claim 21 depends on claim 17 and only further limitations will be addressed below.

Re claim **21**, the combined teaching of Raiz in view of Kolakowski, as a whole, disclose the starting/continuing a restricted execution of said application, within defined limits, if the message has not been sent (Raiz: paragraph [34], the system is returned to demonstration mode (restricted execution) ... when the 30 days end (defined limits); paragraph [51], connection cannot be made; note that the message not being sent will allow a subscription lapse and continuing on demonstration mode).

Re claim **23**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses the determination that the message has not been sent (Raiz: paragraph [51], connection cannot be made (implicit that message has not been sent))

interrupt the execution of said application, if message has not been sent (Raiz: paragraph [51], at the end of grace period, the user is alerted to complete the registration wizard information to restart (implicit interrupted) the account))

Re claim **25**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses the downloading application software to said mobile terminal

device (paragraph [27], A user can obtain the demonstration version of software by downloading from an FTP site).

Re claim **26**, the combined teaching of Raiz in view of Kolakowski, as a whole, discloses

determining the actual date (implicit from 3rd limitation)

comparing said actual date with time rule provided in said application (implicit from 3rd limitation),

interrupting the execution of said application, if said actual date does not meet said time rule (Raiz: paragraph [51], at the end of grace period, the user is alerted to complete the registration wizard information to restart (implicit interrupted) the account)).

Re claim **27**, the claim is the receiving side of the method of claim 7 and would need the method of claim 7 to be carried out for it to actualize. It is therefore rejected for the same reason as above.

The rejection of claim 27 is incorporated herein. Claim 28 depends on claim 7 and only further limitations will be addressed below.

Re claim **28**, the claim is the receiving side of claim of the method of claim 7 and would need the method of claim 7 to be carried out for it to actualize. It is therefore rejected for the same reasons as above.

Re claim **29**, contains similar limitations as claim 1, and is rejected for the same reasons as above.

Re claim **30**, it is drawn to a computer readable medium embodying a program for executing claim 1 and is rejected for the same reasons used above. Examiner notes that the computer readable medium has not been defined in the specifications and for examining propose would be construed to be of a statutory class.

Re claim **31**, it is drawn to a computer readable medium embodying a program for executing claim 1 and is rejected for the same reasons used above. Examiner notes that the computer readable medium has not been defined in the specifications and for examining propose would be construed to be of a statutory class.

Re claim **32**, it is drawn to the apparatus by the corresponding method claim 1 and is rejected for the same reasons as above.

Re claim **33**, and applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 7 and is rejected for the same reasons as above.

Re claim **34**, and applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 3 and is rejected for the same reasons as above.

Re claim **35**, and applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 1 and is rejected for the same reasons as above. Furthermore, Kolakowski discloses cellular telephone transmitter (page 7,

24, it would be obvious to a person having ordinary skills in the art that the try to use a mobile telephone).

Re claim **36**, and applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 19 and is rejected for the same reason as above.

Re claim **37**, it is drawn to the apparatus by the corresponding method claim 1 and is rejected for the same reasons as above.

Re claim **38**, and applied to claim 37 above, it is drawn to the apparatus by the corresponding method claim 7 and is rejected for the same reason as above.

Re claim **39**, it is drawn to the system by the corresponding method claim 1 and is rejected for the same reasons as above.

Re claim **40**, contains similar limitations as claim 27, and is rejected for the same reasons as above.

Re claim **41**, it is drawn to a computer readable medium embodying a program for executing claim 27 and is rejected for the same reasons used above.

Examiner notes that the computer readable medium has not been defined in the specifications and for examining propose would be construed to be of a statutory class.

Re claim **42**, it is drawn to a computer readable medium embodying a program for executing claim 27 and is rejected for the same reasons used above. Examiner notes that the computer readable medium has not been defined in the

specifications and for examining propose would be construed to be of a statutory class.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raiz et al. US Pub No. 20020164025 A1 in view of Kolakowski, Victoria, S., WIPO Pub No. 02/49732 A1 as applied in claim 1 above and further in view of Kim, Hee-Seok., WIPO Pub. No. 01/72064 A1.

The rejection of claim 11 is incorporated herein. Claim 14 depends on claim 11 and only further limitations will be addressed below.

Re claim 14, the combined teaching of Raiz in view of Kolakowski discloses the claimed invention but is silent on the charging of the telephone bill. Kim in analogous art (see abstract, fig 1) discloses a system for downloading game programs stored in a game server to a mobile terminal via a wireless network, storing the game programs in the memory and playing the same so as to provide sophisticated games programs to mobile terminal (page 2, line 11). Kim further discloses that the cell phone number is requested and the game is downloaded and that the request for cell phone number is used to bill the user. It would therefore have been obvious to a person having ordinary skills in the art, at the time the invention was made, to incorporate the teaching of Kim, into the disclosure of Raiz in view of Kolakowski, as a whole, to have payment transaction charged to the next telephone bill so as to provide sophisticated games programs to the mobile terminal.

6. Claims 18, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raiz et al. US Pub No. 20020164025 A1 in view of Kolakowski, Victoria, S., WIPO Pub No. 02/49732 A1 as applied in claim 1 above and further in view of Meyer, Michael., “TCP Performance over GPRS”, In proc Wireless Communication and Networking Conference, 1999, WCNC, 1999 IEEE, vol 3.

The rejection of claim 17 is incorporated herein. Claims 18, 19 depend on claim 17 and only further limitations will be addressed below.

Re claim 18, the combined teaching of Raiz in view of Kolakowski discloses the claim invention but is silent on the details of the message not being sent. However, Meyer in analogous art discloses a packet oriented data service (message) for a mobile terminal device (see abstract) so as to use TCP on a cellular data network (page 1248, col 2, lines 24 – 25). Meyer further discloses that the determination that the message is not being sent, if a confirmation message that said message has been sent is not received with a defined time (page 1249, col 2, section III, paragraph [2], Meyer disclose a TCP timeout (confirmation message not received during defined time), and that timeouts should only occur if segments (messages) are lost.). It would have been obvious to a person having ordinary skills in the art at the time of the invention to incorporate the teaching of Meyer into the disclosure of Raiz in view of Kolakowski, as a whole, to determine the message has not been sent if an

confirmation message that the message has been sent is not received within a defined period so as to use TCP in a cellular data network.

Re claim **19**, the combined teaching Raiz in view of Kolakowski and further in view of Meyer, as a whole, is silent on the buffering of said message not sent. However, examiner takes official notice that the buffering of message not sent in the TCP environment disclosed by Raiz in view of Kolakowski and further in view of Meyer known and expected.

The rejection of claim 1 is incorporated herein. Claim 22 depends on claim 1 and only further limitations of will be addressed below.

Re claim **22**, the combined teaching of Raiz in view of Kolakowski and further in view of Meyer, as a whole, discloses the receiving of a confirmation message that said message has been sent (Meyer: page 1251, col 2, first paragraph, TCP updates its RTO value based on its received acknowledgements).

7. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raiz et al. US Pub No. 20020164025 A1 in view of Kolakowski, Victoria, S., WIPO Pub No. 02/49732 A1 as applied in claim 1 above and further in view of Soliman, Samir S., US Pat No. 6785249 B2.

The rejection of claim 17 is incorporated herein. Claim 20 depends on claim 17 and only further limitations of will be addressed below.

Re claim **20**, the combined teaching of Raiz in view of Kolakowski, as a whole, disclose the starting/continuing a restricted execution of said application, within defined limits, if the message has not been sent (paragraph [34], the

system is returned to demonstration mode (restricted execution) ... when the 30 days end (defined limits); paragraph [51], connection cannot be made; note that the message not being sent will allow a subscription lapse and continuing on demonstration mode). Raiz in view of Kolakowski is silent on determining the condition that prevents the sending of said message. Soliman in analogous art discloses a wireless terminal device and a method of determining that a link has failed (see abstract) so as to determine the reason a call was dropped and if so take appropriate action (col 6, lines 6 - 9). Soliman further discloses that a method determines whether a failure has occurred in the link (col 6, lines 41 - 42) and the potential cause of the failure (col 7 lines 1 - 2). It would be obvious to a person having ordinary skills in the art, at the time the invention was made, to incorporate the teaching of Soliman into the disclosure of Raiz in view of Kolakowski, as a whole, to have the terminal determine conditions that prevent the sending of the message so as to have the capability of taking appropriate action.

The rejection of claim 1 is incorporated herein. Claim 24 depends on claim 1 and only further limitations will be addressed below.

Re claim **24**, the combined teaching of Raiz in view of Kolakowski and further in view of Meyer discloses that the message is sent via general packet radio service (Meyer: page 1249, col 2, section IV, paragraph [2]).

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OPIRIBO GEORGEWILL whose telephone number is (571)270-7926. The examiner can normally be reached on Monday through Thursday, 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OPIRIBO GEORGEWILL/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617